

██████████,
Complainant,

v.

PAPA JOHN'S PIZZA,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following Notice of Finding with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred. 910 IAC 1-3-2(b)

On May 31, 2011 ██████████ ("Complainant") filed a complaint with the Commission against Papa John's Pizza ("Respondent") alleging race discrimination in violation of ██████████ and the Indiana Civil Rights Law (IC 22-9, et seq.). Complainant is an employee and Respondent is an employer as those terms are defined by the Civil Rights Law. IC 22-9-1-3(h) and (i). Accordingly, the Commission has jurisdiction over the parties and the subject matter.

An investigation has been completed. Both parties have submitted evidence. Based on the final investigative report and a full review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was terminated due to his race. In order to prevail on such a claim, Complainant must show that: (1) he is a member of a protected class; (2) he suffered an adverse employment action; (3) he was meeting Respondent's legitimate job expectations at the time of his termination; or (4) similarly-situated employees of a different race were treated more favorably.

Complainant is clearly a member of a protected class by virtue of his race and it is also undisputed that he suffered an adverse an adverse employment action when respondent terminated him on May 9, 2011. There is no dispute about the fact that, for whatever reason, Complainant did ask his supervisor not to disclose that Complainant worked in the classification of pizza delivery driver when representatives of an automobile finance company called Respondent to confirm Complainant's employment. The finance company never did call Respondent for employment information. Respondent asserts that Complainant was therefore terminated for violation of policies related to honesty in the workplace. Respondent purported, non-discriminatory reason for Complainant's termination is unworthy of credence, as Complainant exhibited no dishonesty as it related to the performance of his job. Furthermore, he was not dishonest by making a request of his supervisor. His supervisor could have simply told him that he would not provide false

information to a third part. There is no evidence that Complainant was otherwise not meeting his employer's performance expectations. This suggests that Respondent's stated reason for terminating Complainant may be pretext for unlawful discrimination.

Based upon the above findings, probable cause exists to believe that an unlawful discriminatory practice may have occurred. A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. IC 22-9-1-18, 910 IAC 1-3-5 The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. IC 22-9-1-16, 910 IAC 1-3-6

January 5, 2012

Date

Joshua S. Brewster, Esq.,
Deputy Director
Indiana Civil Rights Commission